

TEXAS APPRAISER LICENSING§
AND CERTIFICATION BOARD

vs.

JAMES WADE PURDY
TX-1336490-L

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DOCKETED COMPLAINT NO.
12-123

AGREED FINAL ORDER

On the 16 day of Aug, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the license of James Wade Purdy (the "Respondent").

In order to conclude this matter, James Wade Purdy neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order.

FINDINGS OF FACT

1. Respondent is a Texas state licensed real estate appraiser who holds license number TX-1336490-L, and was licensed by the Board during all times material to the above-noted complaint.
2. Respondent appraised real property located at 6019 Schuler Street, Houston, Texas 77007 (the "property") on or about March 7th, 2008.
3. Thereafter a complaint was filed with the Board by Mark Liley, an employee of Flagstar Bank. The complaint alleges that the Respondent produced an appraisal report for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CHPT. 1103 (the "Act") and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").
4. Thereafter the Board notified Respondent of the nature of the accusations involved for the complaint and Respondent was afforded the opportunity to respond to the accusations in the complaint. Respondent was also requested to provide certain documentation to the Board, which was received.
5. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the property:
 - a) USPAP Ethics Rule (record keeping) -- Respondent violated the Ethics Rule because he failed to maintain a work file containing all data, information and

documentation necessary to support his opinions, analyses and conclusions as required by the record keeping provisions:

- b) USPAP Scope of Work Rule: 1-2(h) & 2-2(b)(vii) – Respondent failed to satisfy the Scope of Work Rule and related USPAP provisions because his scope of work did not facilitate the development of credible assignment results. Respondent failed to support his work with the relevant evidence and logic required to obtain credible assignment results;
- c) USPAP Standards 1-2(f) or 1-2(g), 2-1(c) & 2-2(b)(x); 1-2(e)(iv) & 2-2(b)(viii); 1-3(a) & 2-2(b)(viii) and 1-1(b) – Respondent did not disclose extraordinary assumptions, hypothetical conditions, extraordinary assumptions or limiting conditions that directly affected his analysis, opinions and conclusions by failing to report, verify or analyze that a portion of the property exceeded the building set back line dictated by law. Instead he excluded that portion of the structure from his building sketch and gross living area calculations, and failed to disclose these significant facts. Respondent misrepresented and omitted discussion and analysis of significant and material information concerning building set back line ordinances which the property violated;
- d) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to identify and report the improvements description by misrepresenting and omitting significant and material information concerning significant fire damage caused to the property 4 months prior to the date of his report and failing to analyze this additional information and its impact, if any, on the property's market value. Respondent also failed to identify and report the improvements description by misrepresenting and omitting discussion and analysis of a garage/porte-co-chere which had been converted into a game room and the functional obsolescence due to its sloping concrete subfloor. For this same reason, the property suffered from functional obsolescence due to the lack of a garage which was also not identified and discussed;
- e) USPAP Standards 1-3(a) & 2-2(b)(viii) – Respondent misrepresented factors affecting marketability (such as economic supply and demand and market area trends), including the neighborhood's market area trends and the high rate of distressed home sales in the immediate area even though approximately 34% of the total sales similar to the property were bank owned. Respondent also failed to summarize his rationale for the market area trends and economic supply and demand determinations he made in his report. He also did not provide supporting documentation in his work file for the opinions and conclusions he reached concerning these topics;
- f) USPAP Standards 1-4(b)(ii) & 2-2(b)(viii); 1-1(a) & 1-4(b) – Respondent failed to provide support for his determination of the cost new of improvements in his work file and did not summarize his supporting rationale for his determinations. Respondent also did not properly collect, verify, analyze and reconcile this data, which revealed a different price per square foot than Respondent used in his report, as well as a different cost for porches, patios and balconies and a much

lower cost figure for the site improvements. Cost data was not analyzed by Respondent, which needed to be and would have significantly impacted his assignment results;

- g) USPAP Standards 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b) – Respondent failed to collect, verify, analyze and reconcile accrued depreciations (including the functional obsolescence associated with the converted garage area) and did not provide documentation in his work file to support his analyses, opinions and conclusion, nor did he provide a summary of his supporting rationale, which explained the reasoning behind those opinions and conclusions;
 - h) USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 1-6(a) & (b) & 2-2(b)(viii) – Respondent misrepresented that the sales he selected were comparable to the property. He has failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in his sales comparison approach. Generally, Respondent used inappropriate properties as comparable sales even though appropriate, more similar sales (in terms of salient market characteristics) were readily available in the immediate area and should have been used. Respondent misrepresented that the properties he selected as comparables were similar in salient market characteristics (such as location, gross living area, age, condition, amenities and quality of construction). Respondent also failed to make appropriate adjustments or made inappropriate adjustments to the sales he did use, and did not discuss his analysis and reasoning behind the adjustments he made or elected not to make. Respondent also did not report, analyze and discuss his reasoning for any conclusions reached regarding the property's functional obsolescence stemming from the garage conversion anywhere in his sales comparison approach. Market data was not analyzed by Respondent, which needed to be and would have significantly impacted his assignment results;
 - i) 1-5(b) & 2-2(b)(vii) & 1-1(b); 1-6(a) & (b) & 2-2(b)(viii) – Respondent failed to disclose, analyze and reconcile significant and material information concerning a prior sale of the property; and,
 - j) USPAP Standards 1-1(a), 1-1(b), 1-1(c) and 2-1(a) – For the reasons detailed above, Respondent produced a misleading appraisal report for the property that contained misrepresentations and several substantial errors of omission or commission by not employing correct methods and techniques. This resulted in a misleading appraisal report that was not credible or reliable and significantly impacted his assignment results.
6. Respondent omitted material facts and made material misrepresentations in his appraisal of the property as described in more detail above.
7. The parties enter into this consent order ("Order") in accordance with Tex. Occ. CODE § 1103.458.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3).
3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations omitting material facts.
4. The parties are authorized to resolve their dispute by means of a consent order in accordance with Tex. Occ. Code §1103.458.

ORDER

Based on the above findings of fact and conclusions of law, the Board ORDERS that Respondent's Texas appraiser certification be suspended for a period of 24 months, effective 5:00 p.m. (CST) on August 16th, 2013.

IT IS FURTHER ORDERED that beginning at 5:00 p.m. (CST) on August 16th, 2013, the suspension is to be fully probated for 24 months ending 5:00 p.m. (CST) on August 16th, 2015, subject to the following terms and conditions:

1. **EDUCATION.** On or before December 16th, 2013, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance and have an exam. Respondent must receive a passing grade on the exam given in each class. None of the required classes will count toward Respondent's continuing education requirements for certification. **Respondent is solely responsible for locating and scheduling classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.**
 - A. A minimum fifteen (15) classroom-hour course in USPAP;
 - B. A minimum (7) classroom-hour course in the sales comparison approach;
and,
 - i. No examination shall be required for this course;
 - C. A minimum (7) classroom-hour course in quality assurance.
 - i. No examination shall be required for this course;

2. **MENTORSHIP.** On or before February 16, 2014, Respondent shall complete fourteen (14) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor on or before the due date listed for each mentorship requirement. Respondent shall also submit a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees form on or before the due date listed for the mentorship requirement. **Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.**
3. **ADMINISTRATIVE PENALTY.** Respondent shall pay to the Board an administrative penalty of three thousand dollars (\$3,000.00), which shall be paid in twenty (20) monthly installments of \$150.00 by the dates indicated below:
 - a. \$150.00 due on or before September 5th, 2013
 - b. \$150.00 due on or before October 5th, 2013
 - c. \$150.00 due on or before November 5th, 2013
 - d. \$150.00 due on or before December 5th, 2013
 - e. \$150.00 due on or before January 5th, 2014
 - f. \$150.00 due on or before February 5th, 2014
 - g. \$150.00 due on or before March 5th, 2014
 - h. \$150.00 due on or before April 5th, 2014
 - i. \$150.00 due on or before May 5th, 2014
 - j. \$150.00 due on or before June 5th, 2014
 - k. \$150.00 due on or before July 5th, 2014
 - l. \$150.00 due on or before August 5th, 2014
 - m. \$150.00 due on or before September 5th, 2014
 - n. \$150.00 due on or before October 5th, 2014
 - o. \$150.00 due on or before November 5th, 2014
 - p. \$150.00 due on or before December 5th, 2014
 - q. \$150.00 due on or before January 5th, 2015
 - r. \$150.00 due on or before February 5th, 2015
 - s. \$150.00 due on or before March 5th, 2015
 - t. \$150.00 due on or before April 5th, 2015
4. **LOGS.** On or before **July 1st, 2014**, Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board for the period of **March 1st, 2014 to June 1st, 2014**. The log shall detail **all** real estate appraisal activities Respondent has conducted during that 3 month period. This log shall be signed by Respondent and contain a notarized affidavit attesting the log is true, complete and accurate. Upon written request from the Board, Respondent shall provide copies of his appraisal reports and work files for any appraisal assignments Respondent performs during the course of this period of probation within twenty days of receiving any such written request.
5. Fully and timely comply with all of the provisions of this Agreed Final Order; and,

6. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

RESPONDENT'S FAILURE TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE SHALL RESULT IN THE AUTOMATIC REVOCATION OF PROBATION AND THE SUSPENSION IMPOSED IN THIS AGREED FINAL ORDER SHALL BE EFFECTIVE COMMENCING ON THE EFFECTIVE DATE OF THE REVOCATION OF PROBATION. ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.

RESPONDENT, BY SIGNING THIS AGREED FINAL ORDER, WAIVES THE RESPONDENT'S RIGHT TO A FORMAL HEARING, ANY MOTION FOR REHEARING, AND ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

RESPONDENT IS SOLELY RESPONSIBLE FOR TIMELY DELIVERY TO THE BOARD OF ALL DOCUMENTS AND PAYMENTS NECESSARY FOR COMPLIANCE OF THIS AGREED FINAL ORDER. PAYMENT OF ANY ADMINISTRATIVE PENALTIES DUE MUST BE IN THE FORM OF A CASHIER'S CHECK OR MONEY ORDER MADE PAYABLE TO THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD. RESPONDENT SHALL RETAIN DOCUMENTATION (REPLY EMAIL, FAX CONFIRMATION, RETURN RECEIPT, ETC.) CONFIRMING RECEIPT BY THE BOARD OF ALL THE NECESSARY DOCUMENTS.

RESPONDENT SHALL SEND ALL DOCUMENTS AND PAYMENTS NECESSARY FOR COMPLIANCE BY: (1) EMAIL TO COMPLIANCE.TALCB@TALCB.TEXAS.GOV, (2) FAX TO (512) 936-3966, ATTN: COMPLIANCE, OR (3) CERTIFIED MAIL RETURN RECEIPT REQUESTED TO STANDARDS & ENFORCEMENT SERVICES, TEXAS APPRAISER LICENSING & CERTIFICATION BOARD, STEPHEN F. AUSTIN BUILDING, 1700 N. CONGRESS AVE., SUITE 400, AUSTIN, TX 78701.

I HAVE READ AND REVIEWED THIS ENTIRE AGREED FINAL ORDER FULLY AND AM ENTERING INTO IT OF MY OWN FREE WILL TO AVOID THE EXPENSE OF LITIGATION AND TO REACH AN EXPEDITIOUS RESOLUTION OF THE MATTER. I NEITHER ADMIT NOR DENY THAT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED HEREIN ARE CORRECT. I UNDERSTAND ALL OF MY COMPLIANCE OBLIGATIONS UNDER THIS AGREED FINAL ORDER AND THE CONSEQUENCES FOR FAILING TO COMPLY WITH THOSE OBLIGATIONS.

I UNDERSTAND THAT THE BOARD AND ITS STAFF CANNOT PROVIDE ME WITH LEGAL ADVICE. I AM AWARE OF MY RIGHT TO A HEARING, AND HEREBY WAIVE A HEARING AND ALSO WAIVE ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER, INCLUDING FOR ANY SUBSEQUENT ACTION RESULTING

FROM MY FAILURE TO TIMELY COMPLY WITH AN ADMINISTRATIVE REQUIREMENT OF THIS AGREED FINAL ORDER, SUCH AS PAYMENT OF A FEE, COMPLETION OF COURSEWORK OR FAILURE TO PROVIDE LOGS

This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

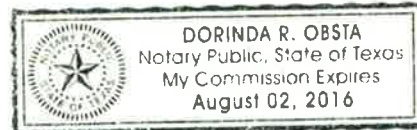
Signed this 30th day of July, 2013.

J W Purdy
JAMES WADE PURDY

Ted Whitmer
TED WHITMER, ATTORNEY FOR
RESPONDENT

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 30th day of July, 2013, by JAMES WADE PURDY, to certify which, witness my hand and official seal.

Dorinda R. Obsta
Notary Public Signature



DORINDA R. OBSTA
Notary Public's Printed Name

Signed by the Standards and Enforcement Services Division this 1ST day of AUGUST, 2013.

Troy Beaulieu
Troy Beaulieu
TALCB Staff Attorney

Signed by the Commissioner this 16 day of Aug, 2013.

Douglas E. Oldmixon
Douglas E. Oldmixon, Commissioner

Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 16 day of Aug, 2013.


Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board